

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ANDREW PERRONG,

Plaintiff,

v.

MACY'S INC., DEPARTMENT STORES
NATIONAL BANK, FDS BANK, and
MACY'S CREDIT AND CUSTOMER
SERVICES, INC.,

Defendants.

CIVIL ACTION NO. 18-1382

**DEFENDANT'S DEPARTMENT STORES NATIONAL BANK'S
MOTION TO STAY PROCEEDINGS**

Defendant Department Stores National Bank ("DSNB"), wrongly identified as Macy's Inc., Department Stores National Bank, FDS Bank, and Macy's Credit and Customer Services, Inc., through its undersigned counsel, hereby moves for a stay of all aspects of these proceedings pending the FCC's forthcoming guidance on the scope of liability and treatment of reassigned numbers.

Plaintiff filed suit against DSNB – at least his 45th TCPA lawsuit –based on allegations that DSNB called a telephone number provided to DSNB by a DSNB customer with that customer's consent to be called. Despite that publically available records show that telephone number still belongs to DSNB's customer, Plaintiff avers it was "reassigned" to him. The core issue in this case, therefore, is DSNB's liability for calling a reassigned phone number.

Resolution of this exact issue is presently before the FCC, and its Ruling will bind this Court. Additionally, there is every indication that the FCC will find that businesses *cannot* be held liable for reassigned or wrong number calls. Because, at best, the FCC's forthcoming guidance will eliminate liability and obviate this case, and, at worst, will streamline the issues in

the case and save the parties and the Court valuable resources, DSNB respectfully requests that this case be stayed pursuant to the primary jurisdiction doctrine. A stay here will cause no prejudice, as litigation holds are in place and Plaintiff concedes he is no longer receiving any calls from DSNB.

For these reasons, discussed in more detail in the accompanying Memorandum of Law, DSNB respectfully requests that these proceedings be stayed until the issuance of the FCC's Ruling on the scope of liability and treatment of reassigned numbers,

Respectfully Submitted,

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